

REMARKS/ARGUMENTS

I. Specification

In the Office Action dated July 20, 2004, the Examiner relied on *Ex parte Bowman*, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) to reject the claims and required certain changes in the specification based on 35 U.S.C. §101. In light of *Ex parte Lundgren*, Appeal No. 2003-2088 (BPAI 2005), the Applicant respectfully objects to the rejection and all changes made to the claims and the specification and respectfully requests that the specification be changed to the original form as filed on the filing date of April 23, 2001. The Applicant requests three minor changes to the specification for the following reasons: (1) change from “find” to “fund” in Paragraph 0006 of page 1 to correct a spelling error; and (2) change from “forces” to “force” and from “are” to “is” in the Summary of the Invention of the disclosure which appears on Paragraph 0010 of page 1 of the application to correct grammatical errors in the original filing of April 23, 2001.

The amendments to the specification add no new matter. The specification in the current form is in the same form as originally filed. All amendments made in the past, whether appropriate or not, are deleted except for the two specified above to correct one spelling error and two grammatical errors. Withdrawal of the pending rejection based on 35 U.S.C. §112 is respectfully requested.

II. Status of the Claims

Claims 1-22 were originally filed and currently cancelled. Claims 22-37 are currently withdrawn. Claims 38, 29, and 41-45 are currently amended and claims 40 and 46-50 are newly added to overcome the rejections cited by the Examiner in the last Office Action. No new matter is introduced by the amendment. Claims 38-50 remain pending.

III. Claim Rejection

Application No. 09/839,838
Amendment Dated December 11, 2005
Reply to Final Office Action of September 13,
2005

PATENT

To advance and simplify prosecution, Applicant has cancelled claims 1-22, withdrawn claims 22-37, amended claims 38, 29, and 41-45, and added new claims 40, and 46-50. The changes made to the claims are intended overcome the specific objections cited by the Examiner and do not in any manner constitute applicant's surrender of the subject matter cancelled or withdrawn.

II.

A. 35 U.S.C. §112

By amending the claims as stated herein, in light of *Ex parte Lundgren*, Appeal No. 2003-2088 (BPAI 2005), the Applicant has reverted the specification and the claims to their original form as filed on the filing date of April 23, 2001. Therefore, as will be shown below, the specification in the current filed form has support for the invention as claimed.

Claim #38 combines three elements that formulate the basis of this invention. First, it specifies that the invention functions in all aspects as a credit card issued by a financial institution, credit card company, or bank to a known and identifiable customer. Second, unlike the standard credit card, this invention is distinct by being issued anonymously without reference to a specific customer's name or social security number. This invention is intended to serve the segment of society that does not wish to disclose the individual's personal information to secure a credit card. Also, it is intended to serve those persons who intend to complete non-cash transactions, either in person, by phone or over the Internet, without disclosing their name or personal information. Third, the invention discloses a means to use a known and pre-designated monetary value that is used or exchanged with no reference or method to disclose the user's personal information. Page 2, line 40 contains repeated support for every aspect mentioned above. Every other aspect of the invention that is claimed in the remaining claims is specifically referred to in the specification.

The amendments to the specification and the claims add no new matter. The specification has support for the claimed invention. Withdrawal of the pending rejection based on 35 U.S.C. §112 is respectfully requested.

B. 35 U.S.C. §101

In light of *Ex parte Lundgren*, Appeal No. 2003-2088 (BPAI 2005), the Applicant respectfully requests that the Examiner withdraw the rejection based on lack of statutory subject matter.

C. 35 U.S.C. §102

In his response to the First Office Action, the Applicant responded to the Examiner's rejection of the invention based on U.S.C. §102(b) as being anticipated by Franklin et al. (U.S. Patent No. 5,883,810) and Zampese (U.S. Patent No. 6,014,650). Applicant recognizes that the Examiner acknowledged the difference of the claimed invention and the prior art described in Franklin et al. (U.S. Patent No. 5,883,810) and Zampese (U.S. Patent No. 6,014,650). Furthermore, Applicant recognizes Examiner's remarks that the amendment and claims as submitted in Applicant's response to the First Office Action on February 7, 2005, did not take into consideration these differences as argued and made distinct. Therefore, Applicant amended the current pending claims to include the elements necessary to enable this claimed invention.

Specifically, the current claims are drawn to an invention that is (1) issued to an unidentified customer and (2) issued with no means to follow up and search for the holder at the time of or after the time of issuance to trace the identity of the holder or customer. Therefore, clearly, this invention is not anticipated by either Franklin et al. (U.S. Patent No. 5,883,810) or Zampese (U.S. Patent No. 6,014,650) because no personal information is used to the issuing entity to enable it to issue the claimed invention, no personal information is disclosed at the time of use of the claimed invention, and no personal information is disclosed to enable a later search or identification of the holder's or user's personal information.

Franklin et al.'s method is based on "permanent customer account number that is maintained on behalf of the customer at the issuing institution." (Please see Franklin et al. Abstract). Moreover, Franklin et al.'s invention is based on issuing a proxy number to another permanent and known account number of a known customer. This invention, however, is based on anonymous transactioning. No personal information is used in the issuance or post issuance of the claimed invention. Personal information and identity of the holder of the claimed invention can never be disclosed by searching and tracing the transaction or claimed invention. This

invention is used anonymously, without disclosing the identity of the user (who may or may not be the purchaser of the same medium) online, offline, as a credit card, and in place of cash.

Accordingly, Applicant respectfully requests the withdrawal of the anticipation rejection based on the Franklin et al. reference.

For the same reasons as above Zampese does not anticipate this invention. Zampese involves a method that assigns to each known and identifiable purchaser a unique account code, which can be used to search and trace the holder. This claimed invention is not issued to an identified holder. Also, this invention is issued with no means to trace or identify the holder or the holder's personal information. Clearly, this claimed invention is distinct of that described in Zampese.

In addition, such unique account code is verified at the time of the transaction to make sure that the use is authorized and not fraudulent by referring to the identity of the user. None of these identification markers are used by this invention. This invention is based on the anonymous identity of the purchaser or user. In as much as a cash holder loses an opportunity to claim his/her cash upon loss, the purchaser or user of this claimed invention will similarly lose upon the loss of this claimed invention.

Moreover, Zampese assigns two codes to a purchaser, a unique account code that is traceable to each known customer and a second purchase code to prevent reuse in a subsequent purchase. Such verification of both codes is established by referring to databases to check the purchaser's identity and verify that there was no prior use of each purchase code. This invention is distinguishable from Zampese. Here, there is no assignment of an account code to each purchaser coupled with an assignment of secret purchase code for each purchase; there is no verification procedure of the identity of the purchaser; and there is no verification procedure of the prior use of each purchase code.

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In order to anticipate a pending claim, a prior art reference must contain all elements of the claim. MPEP §2131. As amended, the pending claims are drawn to a method that is based on issuing and keeping unknown the identity of the purchaser of the pre-designated monetary means as well as the user of the same. Anonymity of the customer is not an element that was claimed or disclosed by Zampese or Franklin.

As stated above, a prior art reference must have all claim elements in order to anticipate a pending claim. The pending claims, following the present amendment, are drawn to credit cards distinguishable from those of Franklin and Zampese. As such, Applicant submits that the Franklin and Zampese references do not anticipate the amended claims and the anticipation rejection on this ground should thus be withdrawn.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the Applicant at his home at 510-888-9511, or his cell phone at 510-303-2745.

Respectfully submitted,



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